

IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE
May 8, 2012 Session

READY MIX, USA, LLC v. JEFFERSON COUNTY, TENNESSEE

**Appeal by Permission from the Court of Appeals, Eastern Section
Chancery Court for Jefferson County
No. 99113 Jon Kerry Blackwood, Senior Judge**

No. E2010-00547-SC-R11-CV - Filed August 30, 2012

WILLIAM C. KOCH, JR., J., concurring

I concur with the Court's conclusion that the evidence does not preponderate against the trial court's finding that Ready Mix, USA, LLC's activities on its property established pre-existing use and, therefore, qualify for protection under Tenn. Code Ann. § 13-7-208 (2011). I base my decision entirely on our prior precedents construing Tenn. Code Ann. § 13-7-208 without any consideration, directly or indirectly, of the diminishing assets doctrine.

WILLIAM C. KOCH, JR., JUSTICE